

BQC - 92 – 009

Date: May 1, 1992

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| To: | Nursing Homes | NH | 6 |
| | Facilities for the Developmentally Disabled | FDD | 4 |

From: Larry Tainter, Director
Bureau of Quality Assurance

Subject: Care Level Change Notice to Residents and Facilities

This is to announce a change in our policy regarding notification procedures for resident care level changes.

The Bureau of Quality Compliance sets a care level to establish entitlement to Medical Assistance coverage for institutional care. It is initially established when a Medical Assistance recipient is admitted to the nursing facility (NF) or facility for the developmentally disabled (FDD), or when a current resident becomes eligible for Medical Assistance (MA). For all MA recipients the care level is reviewed at least annually, usually at the time of the facility survey. It is also reviewed in between surveys, whenever the facility identifies a change in the care level or requests a review.

Historically, our policy has been to send the resident a notice describing the change and the appeal rights whenever the care level changes, even if the change has no effect on the resident's entitlement to institutional care. Effective May 1, 1992, we will no longer send a notice of care level change unless the change will result in a loss of MA coverage. For NFs the notices will be sent only when the new care level is ICF 3 or 4, or there is "no level" (i.e., no need for any level of nursing care). For FDDs the notices will be sent only when the new care level is "no level" (i.e., the individual is not developmentally disabled) or the care level is amended by adding a "no active treatment" designation, which means that MA will not cover care in an FDD.

The reasons for this change are:

1. We have reviewed the notice requirements under Title XIX of the Social Security Act and the Wisconsin statutes governing Medical Assistance and determined that they apply to any action to suspend, terminate or reduce services. Therefore, a care level change that causes the resident to lose MA coverage requires a notice, but other care level changes that do not affect the resident's receipt of services do not require notice.
2. Residents find the unnecessary notices of care level changes confusing and threatening.
3. There is a cost saving associated with eliminating about 2,600 notices per year.

As in the past, the facility will be notified by BQC of any changes in care levels. Effective May 1992, we will amend the written notice that is provided to the facility to include information about how the facility may contest the Department's care level decision. This notice (copy attached) will be served on-site at the conclusion of the care level determination. Notice will not be sent to the resident unless the change in care level results in loss of the resident's MA coverage for institutional care. In those cases the notice will be sent directly to the resident or guardian and will include resident appeal rights.

We recognize that facilities have occasionally encouraged the resident to exercise the appeal rights described in these notices to challenge a care level determination that results in an adjustment to the reimbursement rate the facility receives from the MA program. However, there is a way for the facility to contest the Department's care level action without involving the resident. A facility may request an administrative review of the care level determination by BQC. This review process is distinguished from the formal administrative hearing process described under Chapter 227, Wis. Stats.

A written request for an administrative review by BQC must be sent within 30 days of receipt of the care level notice. The request should include a copy of the care level notice and be sent to Mr. Larry Tainter, Director, Bureau of Quality Compliance, Division of Health, P.O. Box 309, Madison, WI 53701-0309.

Following the administrative review by BQC, the Department will send the facility a formal care level determination letter. A facility may contest this determination by requesting a formal administrative hearing as provided under Section HSS 106.10(4), Wisconsin Administrative Code. The written hearing request must be sent to the Office of Administrative Hearings, P.O. Box 7875, Madison, WI 53707. Any request for hearing must be submitted within 15 days of the receipt of the formal care level determination letter and include a copy of the care level notice and the determination letter.

Questions about this procedure should be directed to the Field Operations Managers.

SW/CR/jr 3550.nm

cc: -BQC Staff
 -Office of Legal Counsel
 -Ann Haney, DOH Admin.
 -Kevin Piper, BHCF Dir.
 -HCFA, Region V
 -Illinois State Agency
 -Ohio State Agency
 -Michigan State Agency
 -Indiana State Agency
 -Minnesota State Agency
 -WI Coalition for Advocacy
 -Service Employees Intern. Union
 -WI Counties Assn.
 -WI Medical Records Assn. Cons. Comm.
 -WI Assoc. of Homes and Services for Aging
 -Bd. on Aging and Long-Term Care
 -LTC BQC Memo Subscribers
 -Director, Bureau of Aging DCS
 -Secy, Dept. of Reg. and Licensing
 -WI Assn. of Hospital SW and Discharge Planners
 -Bur. of Design Prof., DRL
 -Admin., Div. of Care and Treatment Facilities
 -Comm. on Aging, Ext. Care Fac./NH (SMS)
 -WI Assn. of Nursing Homes
 -WI Assn. of Medical Directors